

Atty. Docket No. 01023

PATENT

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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JAN 27 2004

In re Application of:

Jameel MENASHI

Application No.: 09/833,202

Filed: 11 April 2001

Group Art Unit: 1745

Examiner: Alejandro, Raymond

Confirmation No.: 1699

OFFICIAL

For: FUEL CELLS AND OTHER PRODUCTS CONTAINING MODIFIED CARBON  
PRODUCTS

## PETITION TO WITHDRAW HOLDING OF ABANDONMENT

Mail Stop - Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

In response to the *Notice of Abandonment*, dated 18 December 2003, Applicant respectfully requests that the holding of abandonment in the above-identified application be withdrawn and the application be reinstated. Applicant submits that the *Notice* was sent in error.

The underlying facts are as follows:

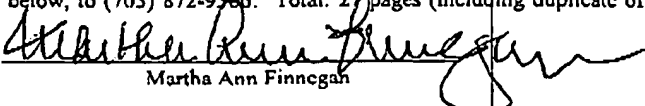
1. The *Notice of Abandonment* provides that: "This application is abandoned in view of: Applicant's failure to timely file a proper reply to the Office letter mailed on 31 March 2003. . . . ☒ (d) No reply has been received."

Also attached to the *Notice of Abandonment* is an *Interview Summary* of a telephonic interview of 9 December 2003 between Examiner Raymond Alejandro and Mark E. Andrews indicating that "applicant's representative confirmed the instant application has been abandoned".

(A copy of the *Notice of Abandonment* with *Interview Summary* is attached hereto as Attachment A.)

## CERTIFICATE OF TRANSMISSION UNDER 37 CFR 1.8

I hereby certify this paper (along with any document or paper referred to herein) is being facsimile transmitted to the United States Patent And Trademark Office on the date indicated below, to (703) 872-9386. Total: 27 pages (including duplicate of Petition without attachments).

  
Martha Ann Finnegan

27 January 2004

Date

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Application No. 09/833,202

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2. A response to the above-mentioned Office letter dated 30 March 2003 was submitted by facsimile transmission to the U.S. Patent and Trademark Office on 30 June 2003. The response was signed by Luke A. Kilyk, Reg. No. 33,251, an attorney of record. A certificate of transmission was also included on the papers submitted by facsimile. (A copy of the cover sheet and response submitted by facsimile and the transmission journal report (indicating that 10 pages were successfully transmitted to 1 (703) 872-9310) are attached hereto as Attachment B.)
3. An "Auto-Reply Facsimile Transmission" showing a copy of the response cover sheet and confirming receipt of ten (10) pages on 30 June 2003 at 4:42:04 P.M. (Eastern Daylight Time) was received in reply to the response submitted by facsimile. (A copy of the "Auto-Reply Facsimile Transmission" received is attached hereto as Attachment C.)
4. A copy of the *Declaration and Power of Attorney* for this application is attached as Attachment D. The *Declaration and Power of Attorney* lists the following individuals as having been appointed as Applicant's attorney for this application: Martha Ann Finnegan, Reg. No. 31,453; Michelle B. Lando, Reg. No. 33,941; William F. Dee, Reg. No. 46,657; and Luke A. Kilyk, Reg. No. 33,251.

With respect to the *Interview Summary*, Applicant submits that it has mistakenly been entered in this application. Although the Application No. and Applicant identified on the *Summary* form are the same as those of the above-identified application, Mark E. Andrews, the person identified in the *Interview Summary* as applicant's representative, is not of record in this application. In addition, to the knowledge of the undersigned, no authorization has been give to this individual to handle any matters in connection with this application.

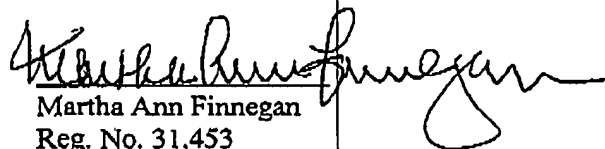
Based upon the foregoing, Applicant submits that reasons for abandonment are incorrect and that the *Notice of Abandonment* was issued in error. Applicant respectfully requests that the holding of abandonment be withdrawn and the application be reinstated. Applicant also requests that the erroneous *Interview Summary* be removed from the file wrapper for the above-identified patent application.

If any fee is due in connection with this Petition, please charge the Petition fee of One Hundred Thirty Dollars (\$130.00) and any other fee that may be due in connection with this Petition to Deposit Account 03-0060. (A duplicate of this Petition (without attachments) is enclosed.)

Respectfully submitted,

Date: 27 January 2004

CABOT CORPORATION  
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Billerica, Massachusetts 01821  
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Martha Ann Finnegan  
Reg. No. 31,453  
Attorney for Applicant

JAN-27-2004 15:53

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978 670 8027 P.05

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Application No. 09/833,202

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**ATTACHMENT A**

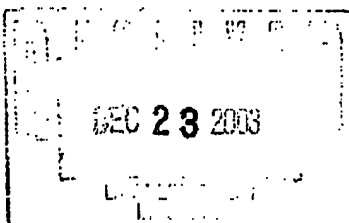


## UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/833,202 ✓	04/11/2001 ✓	Jameel Menashi	01023 ✓	1699

7590 12/18/2003  
Martha Ann Finnegan, Esq.  
CABOT CORPORATION  
Billerica Technical Center  
157 Concord Road  
Billerica, MA 01821-7001



EXAMINER
ALEJANDRO RAYMOND

ART UNIT	PAPER NUMBER
1745	

DATE MAILED: 12/18/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

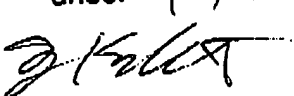
Ab12

<b>Notice of Abandonment</b>	Application No.	Applicant(s)	
	09/833,202	MENASHI, JAMEEL	
	Examiner	Art Unit	
	Raymond Alejandro	1745	

**- The MAILING DATE of this communication appears on the cover sheet with the correspondence address-**

This application is abandoned in view of:

- ☒ Applicant's failure to timely file a proper reply to the Office letter mailed on 31 March 2003.
  - ☐ A reply was received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the period for reply (including a total extension of time of \_\_\_\_\_ month(s)) which expired on \_\_\_\_\_.
  - ☐ A proposed reply was received on \_\_\_\_\_, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.  
(A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
  - ☐ A reply was received on \_\_\_\_\_ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
  - ☒ No reply has been received.
- ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
  - ☐ The issue fee and publication fee, if applicable, was received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
  - ☐ The submitted fee of \$\_\_\_\_\_ is insufficient. A balance of \$\_\_\_\_\_ is due.  
The issue fee required by 37 CFR 1.18 is \$\_\_\_\_\_. The publication fee, if required by 37 CFR 1.18(d), is \$\_\_\_\_\_.
  - ☐ The issue fee and publication fee, if applicable, has not been received.
- ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
  - ☐ Proposed corrected drawings were received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the period for reply.
  - ☐ No corrected drawings have been received.
- ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
- ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
- ☐ The decision by the Board of Patent Appeals and Interference rendered on \_\_\_\_\_ and because the period for seeking court review of the decision has expired and there are no allowed claims.
- ☐ The reason(s) below:

**STEPHEN KALAFUT  
PRIMARY EXAMINER  
GROUP 1700**  


Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.

Interview Summary	Application No.	Applicant(s)	
	09/833,202	MENASHI, JAMEEL	
	Examiner	Art Unit	
	Raymond Alejandro	1745	

All participants (applicant, applicant's representative, PTO personnel):

(1) Raymond Alejandro. (3) \_\_\_\_\_

(2) Mark E. Andrews. (4) \_\_\_\_\_

Date of Interview: 09 December 2003.

Type: a) ☒ Telephonic b) ☐ Video Conference  
c) ☐ Personal [copy given to: 1) ☐ applicant 2) ☐ applicant's representative]

Exhibit shown or demonstration conducted: d) ☐ Yes e) ☐ No.  
If Yes, brief description: \_\_\_\_\_

Claim(s) discussed: all.

Identification of prior art discussed: \_\_\_\_\_

Agreement with respect to the claims f) ☒ was reached. g) ☐ was not reached. h) ☐ N/A.

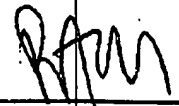
Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: applicant's representative confirmed the instant application has been abandoned.

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN ONE MONTH FROM THIS INTERVIEW DATE, OR THE MAILING DATE OF THIS INTERVIEW SUMMARY FORM, WHICHEVER IS LATER, TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.

Examiner Note: You must sign this form unless it is an Attachment to a signed Office action.

Examiner's signature, if required



### Summary of Record of Interview Requirements

#### Manual of Patent Examining Procedure (MPEP), Section 713.04, Substance of Interview Must be Made of Record

A complete written statement as to the substance of any face-to-face, video conference, or telephone interview with regard to an application must be made of record in the application whether or not an agreement with the examiner was reached at the interview.

#### Title 37 Code of Federal Regulations (CFR) § 1.133 Interviews Paragraph (b)

In every instance where reconsideration is requested in view of an interview with an examiner, a complete written statement of the reasons presented at the interview as warranting favorable action must be filed by the applicant. An interview does not remove the necessity for reply to Office action as specified in §§ 1.111, 1.135. (35 U.S.C. 132)

#### 37 CFR §1.2 Business to be transacted in writing.

All business with the Patent or Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

The action of the Patent and Trademark Office cannot be based exclusively on the written record in the Office if that record is itself incomplete through the failure to record the substance of interviews.

It is the responsibility of the applicant or the attorney or agent to make the substance of an interview of record in the application file, unless the examiner indicates he or she will do so. It is the examiner's responsibility to see that such a record is made and to correct material inaccuracies which bear directly on the question of patentability.

Examiners must complete an Interview Summary Form for each interview held where a matter of substance has been discussed during the interview by checking the appropriate boxes and filling in the blanks. Discussions regarding only procedural matters, directed solely to restriction requirements for which interview recordation is otherwise provided for in Section 812.01 of the Manual of Patent Examining Procedure, or pointing out typographical errors or unreadable script in Office actions or the like, are excluded from the interview recordation procedures below. Where the substance of an interview is completely recorded in an Examiners Amendment, no separate Interview Summary Record is required.

The Interview Summary Form shall be given an appropriate Paper No., placed in the right hand portion of the file, and listed on the "Contents" section of the file wrapper. In a personal interview, a duplicate of the Form is given to the applicant (or attorney or agent) at the conclusion of the interview. In the case of a telephone or video-conference interview, the copy is mailed to the applicant's correspondence address either with or prior to the next official communication. If additional correspondence from the examiner is not likely before an allowance or if other circumstances dictate, the Form should be mailed promptly after the interview rather than with the next official communication.

The Form provides for recordation of the following information:

- Application Number (Series Code and Serial Number)
- Name of applicant
- Name of examiner
- Date of interview
- Type of interview (telephonic, video-conference, or personal)
- Name of participant(s) (applicant, attorney or agent, examiner, other PTO personnel, etc.)
- An indication whether or not an exhibit was shown or a demonstration conducted
- An identification of the specific prior art discussed
- An indication whether an agreement was reached and if so, a description of the general nature of the agreement (may be by attachment of a copy of amendments or claims agreed as being allowable). Note: Agreement as to allowability is tentative and does not restrict further action by the examiner to the contrary.
- The signature of the examiner who conducted the interview (if Form is not an attachment to a signed Office action)

It is desirable that the examiner orally remind the applicant of his or her obligation to record the substance of the interview of each case. It should be noted, however, that the Interview Summary Form will not normally be considered a complete and proper recordation of the interview unless it includes, or is supplemented by the applicant or the examiner to include, all of the applicable items required below concerning the substance of the interview.

A complete and proper recordation of the substance of any interview should include at least the following applicable items:

- 1) A brief description of the nature of any exhibit shown or any demonstration conducted,
- 2) an identification of the claims discussed,
- 3) an identification of the specific prior art discussed,
- 4) an identification of the principal proposed amendments of a substantive nature discussed, unless these are already described on the Interview Summary Form completed by the Examiner,
- 5) a brief identification of the general thrust of the principal arguments presented to the examiner,  
(The identification of arguments need not be lengthy or elaborate. A verbatim or highly detailed description of the arguments is not required. The identification of the arguments is sufficient if the general nature or thrust of the principal arguments made to the examiner can be understood in the context of the application file. Of course, the applicant may desire to emphasize and fully describe those arguments which he or she feels were or might be persuasive to the examiner.)
- 6) a general indication of any other pertinent matters discussed, and
- 7) if appropriate, the general results or outcome of the interview unless already described in the Interview Summary Form completed by the examiner.

Examiners are expected to carefully review the applicant's record of the substance of an interview. If the record is not complete and accurate, the examiner will give the applicant an extendable one month time period to correct the record.

#### Examiner to Check for Accuracy

If the claims are allowable for other reasons of record, the examiner should send a letter setting forth the examiner's version of the statement attributed to him or her. If the record is complete and accurate, the examiner should place the indication, "Interview Record OK" on the paper recording the substance of the interview along with the date and the examiner's initials.

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Atty. Docket No. 01023  
Application No. 09/833,202

PATENT

**ATTACHMENT B**